

FILED

NOV 12 2009

DISCIPLINARY COMMISSION OF THE
SUPREME COURT OF ARIZONA

BY M. Smith

**BEFORE THE DISCIPLINARY COMMISSION
OF THE SUPREME COURT OF ARIZONA**

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4 IN THE MATTER OF A SUSPENDED MEMBER) No. 09-4001
5 OF THE STATE BAR OF ARIZONA)
6)
7 **MICHAEL A. D'ONOFRIO, JR.,**)
8 **Bar No. 017982**) **DISCIPLINARY COMMISSION**
9) **REPORT**
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RESPONDENT.)
_____)

10 This matter came before the Disciplinary Commission of the Supreme Court of
11 Arizona on October 17, 2009, pursuant to Rules 53(i) and 58, Ariz.R.Sup.Ct., for its
12 consideration of whether to impose the reciprocal discipline of reprimand (censure in
13 Arizona) upon Respondent as imposed by the Statewide Grievance Committee of the State
14 of Connecticut on April 3, 2009. No claim of exception, as set forth in Rule 53(i)(3), has
15 been filed.

16
17 **Decision**

18 Having found no facts clearly erroneous, the eight members ¹ of the Disciplinary
19 Commission unanimously recommend imposing reciprocal discipline of reprimand
20 (censure in Arizona) and costs of these disciplinary proceedings including any costs
21 incurred by the Disciplinary Clerk and the Supreme Court of Arizona. The Disciplinary
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¹ Commissioners Belleau and Horsley did not participate in these proceedings. Ms. Elaine Sweet, a public member from Phoenix, participated as an ad hoc member.

Commission further incorporates by reference the State of Connecticut decision.²

1 RESPECTFULLY SUBMITTED this 12th day of November, 2009.

2
3 Jeffrey Messing/mps
4 Jeffrey Messing, Chair
5 Disciplinary Commission

6 Original filed with the Disciplinary Clerk
7 this 12th day of November, 2009.

8 Copy of the foregoing mailed
9 this 13 day of November, 2009, to:

10 Michael A. D'Onofrio, Jr.
11 Respondent
12 2 Sherman Court
13 Fairfield, CT 06824-5826

14 Maret Vessella
15 Chief Bar Counsel
16 State Bar of Arizona
17 4201 North 24th Street, Suite 200
18 Phoenix, AZ 85016-6288

19 by: Deann Barker

20 /mps
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26 ² A copy of the decision is attached as Exhibit A.

EXHIBIT

A

STATE OF CONNECTICUT



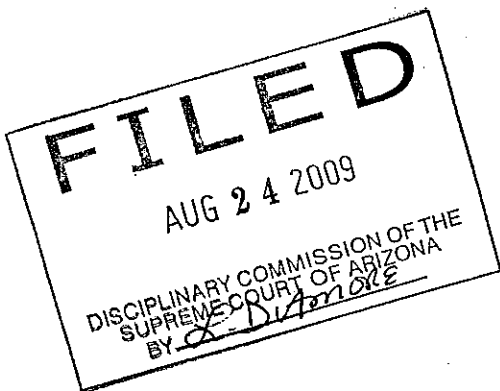
Michael P. Bowler
Statewide Bar Counsel

Frances Mickelson-Dera
Christopher L. Slack
First Assistant Bar Counsel

Tel: (860) 568-5157
Fax: (860) 568-4953

STATEWIDE GRIEVANCE COMMITTEE

www.jud.ct.gov/sgc/
Second Floor - Suite Two
287 Main Street, East Hartford, Connecticut 06118-1885



04/03/2009

OFFICE OF CHIEF DISCIPLINARY C
100 WASHINGTON STREET
HARTFORD CT 06106

MICHAEL ANTHONY D ONOFRIO JR
ATTORNEY AT LAW
2 SHERMAN COURT
FAIRFIELD CT 06824

RE: GRIEVANCE COMPLAINT #08-0745
DESPIRES vs. D ONOFRIO

Dear Respondent and Disciplinary Counsel:

Enclosed herewith is the decision of the reviewing committee of the Statewide Grievance Committee concerning the above referenced matter. In accordance with the Practice Book Sections 2-35, 2-36 and 2-38(a), the Respondent may, within thirty (30) days of the date of this notice, submit to the Statewide Grievance Committee a request for review of the decision.

A request for review must be sent to the Statewide Grievance Committee at the address listed above.

Sincerely,

Michael P. Bowler

Encl.

cc: Attorney George J. Ferrio
Mark Despires

STATEWIDE GRIEVANCE COMMITTEE

Mark Despires
Complainant

:

vs.

:

Grievance Complaint #08-0745

Michael A. D'Onofrio, Jr.
Respondent

:

DECISION

Pursuant to Practice Book §2-35, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, conducted a hearing at the Superior Court, 300 Grand Street, Waterbury, Connecticut on January 6, 2009. The hearing addressed the record of the complaint filed on August 12, 2008, and the probable cause determination filed by the Fairfield Judicial District Grievance Panel on October 6, 2008, finding that there existed probable cause that the Respondent violated Rules 1.3, 1.4(a)(3), 1.4(a)(4) and 3.2 of the Rules of Professional Conduct.

Notice of the hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on December 1, 2008. Pursuant to Practice Book §2-35(d), First Assistant Disciplinary Counsel Patricia King pursued the matter before this reviewing committee. The Complainant appeared at the hearing and testified. The Respondent appeared and testified. No exhibits were received into evidence at the hearing.

This reviewing committee makes the following findings of fact by clear and convincing evidence:

In 2003, the Respondent was appointed to represent the Complainant in a habeas corpus matter after the Complainant had filed a Petition for Writ of Habeas Corpus. In June of 2005, the Respondent withdrew the habeas corpus petition without informing the Complainant. In November of 2005, the Complainant filed a "Motion to Correct Illegal Sentence & Disposition Imposed Illegally" [hereinafter "Motion to Correct"], pro se. The Respondent assisted the Complainant with legal research for the Motion to Correct. In March of 2008, the Complainant was informed by the Acting Chief of Habeas Corpus Services of the Division of Public Defender Services that his habeas corpus petition had been withdrawn in June of 2005. In April of 2008, the Respondent informed the Complainant that he had withdrawn his habeas petition in 2005. The Complainant filed a new Petition for Writ of Habeas Corpus in April of 2008. In and between 2003 and 2008, the Respondent met with the Complainant in prison and sent the Complainant letters.

Grievance Complaint #08-0745

Decision

Page 2

The reviewing committee also considered the following:

In or about 2005, the Respondent was suffering from a medical condition.

The reviewing committee concluded that the Respondent violated the following Rules of Professional Conduct by clear and convincing evidence:

The Respondent violated Rules 1.3 and 3.2 of the Rules of Professional Conduct by withdrawing the Complainant's habeas corpus petition in June of 2005. The petition was not refiled until April of 2008. By withdrawing the petition for approximately thirty-four months, the Respondent failed to represent the Complainant with reasonable diligence and failed to expedite the Complainant's legal matter consistent with the interests of the Complainant.

The Respondent's failure to timely inform the Complainant that he had withdrawn his habeas corpus petition constituted a violation of Rule 1.4(a)(3) of the Rules of Professional Conduct. The Respondent failed to keep the Complainant reasonably informed about the status of his matter.

We do not, however, find clear and convincing evidence that the Respondent failed to comply with the Complainant's requests for information. The Respondent met with the Complainant in prison between 2003 and 2008. The Respondent sent the Complainant letters and assisted him with legal research.

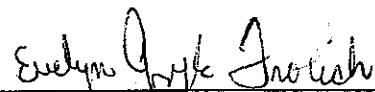
Accordingly, we reprimand the Respondent.

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asc

DECISION DATE:

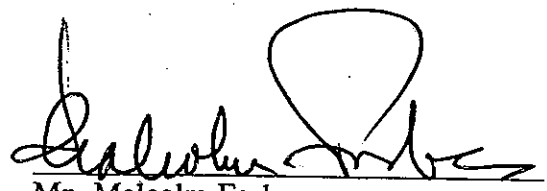
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Grievance Complaint #08-0745
Decision
Page 3



Attorney Evelyn Gryk Frolich

Grievance Complaint #08-0745
Decision
Page 4

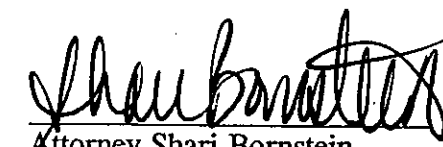
A handwritten signature in black ink, appearing to read "Malcolm Forbes". The signature is written in a cursive style with a large, prominent loop at the end.

Mr. Malcolm Forbes

Grievance Complaint #08-0745

Decision

Page 5


Attorney Shari Bornstein

I hereby certify that the foregoing is a
true copy of the original document on file

Date: 8-20-09

Statewide Grievance Committee

By: 
Statewide Assistant Bar Counsel